

## Surface Mining Reclamation and Enforcement, Interior

## § 843.25

finding under this section and our intention to initiate a Federal inspection.

(2) Post the notice at our office closest to the permit area and on the AVS Office Internet home page (Internet address: <http://www.avs.osmre.gov>).

(3) Notify any person who provides information under paragraph (a) of this section that leads to a Federal inspection that he or she may accompany the inspector on any inspection of the minesite.

(d) *Federal inspection and written finding.* No less than 10 days but no more than 30 days after providing notice under paragraph (c) of this section, we will conduct an inspection and make a written finding as to whether your permit was improvidently issued under the criteria in § 773.21 of this chapter. In making that finding, we will consider all available information, including information submitted by you, the State, or any other person. We will post that finding at our office closest to the permit area and on the AVS Office Internet home page (Internet address: <http://www.avs.osmre.gov>). If we find that your permit was improvidently issued, we must issue a notice to you and the State by certified mail. The notice will state in writing the reasons for our finding under this section.

(e) *Federal enforcement.* If we find that your permit was improvidently issued under paragraph (d) of this section, we must—

(1) Issue a notice of violation to you or your agent consistent with § 843.12(b) of this part and provide opportunity for a public hearing under §§ 843.15 and 843.16.

(2) Issue a cessation order to you or your agent consistent with § 843.11(c), if a notice of violation issued under paragraph (e)(1) is not remedied under paragraph (f) of this section within the abatement period, and provide opportunity for a public hearing under §§ 843.15 and 843.16.

(f) *Remedies to notice of violation or cessation order.* Upon receipt of information from any person concerning a notice of violation or cessation order issued under paragraph (e) of this section, we will review the information and—

(1) Vacate the notice or order if it resulted from an erroneous conclusion under this section; or

(2) Terminate the notice or order if—

(i) The violation has been abated or corrected to the satisfaction of the agency with jurisdiction over the violation;

(ii) You or your operator no longer own or control the relevant operation;

(iii) The violation is the subject of a good faith administrative or judicial appeal (unless there is an initial judicial decision affirming the violation, and that decision remains in force);

(iv) The violation is the subject of an abatement plan or payment schedule that is being met to the satisfaction of the agency with jurisdiction over the violation; or

(v) You are pursuing a good faith challenge or administrative or judicial appeal of the relevant ownership or control listing or finding (unless there is an initial judicial decision affirming the listing or finding, and that decision remains in force).

(g) *No civil penalty.* We will not assess a civil penalty for a notice of violation issued under this section.

[65 FR 79670, Dec. 19, 2000]

### § 843.22 Enforcement actions at abandoned sites.

The Office may refrain from issuing a notice of violation or cessation order for a violation at an abandoned site, as defined in § 842.11(e) of this chapter, if abatement of the violation is required under any previously issued notice or order.

[53 FR 24882, June 30, 1988]

### § 843.25 Energy Policy Act enforcement in States with approved State programs.

(a) *State-by-State determinations.* By July 31, 1995, OSM will determine for each State with an approved State regulatory program whether:

(1) Direct Federal enforcement of the Energy Policy Act and implementing Federal regulations will occur under paragraph (b) of this section with respect to some or all surface coal mining operations in each State, or

(2) The procedures of §§ 843.11 and 843.12(a)(2) will apply to State enforcement of the Energy Policy Act, or